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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,830	05/22/2001	John Gregory Schroeder	AA471	8865

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,830

Applicant(s)

SCHROEDER ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 8 and 25, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9, 10, 12-14, 16, 18-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9, 10, 12-14, 16, 18-20 and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 8, 2003 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-7, 9-10, 12-14, 16, 18-20, 22, 24, 26, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ehrlich (US Patent No. 4,099,912).

Ehrlich teaches a plurality of separate units of different detergent composition components for washing laundry, the units being of tablet, envelope, packet, capsule or other container form having a weight of 5 to 30 grams and a volume of 4 to 20 milliliters (see abstract). In Figure 1, Ehrlich teaches a dispensing article for dispensing a plurality of units of detergent

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components. Ehrlich also teaches that the separate components include a heavy duty detergent composition, an enzyme presoak, a fabric softening composition or a bleach, in all of which various solid or liquid components can be conveniently separately packaged for admixture together of premeasured amounts in accordance with manufacturer's instructions so as to obtain the most desired effects under particular operating conditions (underlining supplied; see col. 11, lines 42-56). Such compositions can be made with all of the component parts thereof separately packaged or packaged in subcombinations, as liquids (solutions or dispersions), powders or unitary solids. Preferably, such as a liquid is a nonionic detergent, a perfume, an aqueous solution of detergent, builder salt or other component or a mixture thereof (see col. 11, lines 56-65). In Example 3, Ehrlich teaches different detergent components wherein liquid or tacky components are packed in polyvinyl-alcohol-polyvinyl acetate copolymer water soluble thin film packets, readily disintegratable paper envelopes or gelatin capsules. The formulas of this example are packaged in cardboard dispensing cartons or plastic containers, wherein they are either intermixed or separately compartmented (see col. 14, line 55 to col. 15, line 35). Ehrlich teaches the limitations of the instant claims. Hence, Ehrlich anticipates the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 23, 25, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrlich as applied to the above claims.

Ehrlich teaches the features as described above. In addition, Ehrlich also teaches that perfume is normally present in all of the tablets so as to increase the pleasant aroma of the product and all components employed (see col. 11, lines 56-65). Ehrlich, however, fails to specifically disclose perfume as the coordinated element.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a plurality of separate units of different detergent composition wherein one unit may be a packet containing a liquid which may be a combination of nonionic surfactant and perfume, and another unit may be a tablet comprising perfume because the teachings of Ehrlich encompass these aspects.

6. Claims 1, 5, 7, 9, 12-14, 16, 18-20, 22, 24, 26, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al. (US Patent No. 4,563,186), hereinafter "Flynn".

Flynn teaches products useful for home laundering which incorporates a prespotter with a detergent and having one or more of the following separate functions: detergency, fabric softening, stain removal, bleaching, and bluing; with the advantage being that both the detergent and the prespotter are uniquely packaged together as one product (see abstract). See prespotter

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formula III at col. 8, lines 9-13 and detergent formula I at col. 10, lines 32-41). In Figure 17, Flynn illustrates a dual chambered container for housing the product (see col. 2, lines 55-57; Figure 17). It is understood that this dual chambered product is identified by a brand name. Flynn also teaches a method of laundering fabric in col. 1, line 51 to col. 2, line 11. Flynn, however, fails to disclose different compositions in separate chambers wherein at least one is a liquid composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a package comprising a prespotter in one chamber and liquid detergent/fabric softener in the other chamber of the dual chamber because the teachings of Flynn encompass these aspects.

7. Claims 1-3, 5-7, 9-10, 12-14, 16, 18-20, 22, 24, 26, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dea (US Patent No. 3,842,976).

Dea teaches a laundry kit which offers a "tote box" for the laundry essentials such as detergents, bleach, fabric softener, etc. The kit comprises a carrier which includes an outer housing and a plurality of containers removably carried therein, with caps and measuring dispensers on the containers and a handle on the housing (see col. 1, lines 1-50). The housing is open at the top and divided into four compartments by a vertical panel which fit containers of rectangular bottle like shape (see col. 2, lines 14-54; Figures 1-5). With this laundry kit, wash day is made much easier for the user of the coin-operated washing machines (see col. 1, lines 29-31)

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Dea, however, fails to specifically disclose a coordinated element such as brand name, container graphics or trade dress.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the laundry kit of Dea containing detergents, bleach, fabric softener to have a brand name, container graphics and/or trade dress because every article/product of commerce contains a brand name, container graphics and/or trade dress.

8. Claims 1, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins (US Patent No. 5,490,608).

Hawkins teaches a portable container having multiple compartments for receiving, containing and dispensing powders, like powdered detergents, and liquids, like liquid bleach, used for the care of washable items which is convenient, easy to use and easily transportable (see abstract; col. 1, lines 6-61). The portable container 2 has a first receptacle 8 for containing liquid and a second set of receptacles 10 for containing powders (see col. 2, lines 23-25; Figures 1 and 4). Hawkins, however, fails to specifically disclose a coordinated element such as container graphics or trade dress.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the portable container of Hawkins containing liquid bleach and powdered detergents to have a coordinated element such as container graphics and/or trade dress because every article/product of commerce contains a container graphics and/or trade dress.

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9. Claims 1-3, 5-7, 9, 12-14, 16, 18-20, 22, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riordan (US Patent No. 6,105,812).

Riordan teaches a dual chamber which can be used as a space-saver for two different products, many often found in combination such as household detergents, bleach and fabric softener, etc. (see abstract; col. 3, lines 31-41; Figures 1-3). Riordan, however, fails to specifically disclose a coordinated element such as brand name, container graphics or trade dress.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the dual chamber of Riordan containing two different products such as household detergents and fabric softener to have a brand name, container graphics and/or trade dress in the dual chamber because every article/product of commerce contains a brand name, container graphics and/or trade dress.

Response to Applicants' Arguments

10. Applicants' arguments filed on September 8 and 25, 2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Ehrlich, Applicants argue that Ehrlich does not teach each and every element of the claimed invention such as a coordinated element as presently claimed which are brand name, container graphics, a dye, a perfume, a trade dress, a set of usage instructions as that recited and a combination thereof.

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The Examiner respectfully disagrees with the above arguments because Ehrlich teaches cardboard dispensing cartons or plastic containers wherein different compositions including liquid compositions are separately compartmented (see col. 3, line 67 to col. 15, line 35), and that different compositions are separately packaged for admixture together of premeasured amounts in accordance with manufacturer's instructions so as to obtain the most desired effects under particular operating conditions (underlining supplied; see col. 11, lines 42-56). Therefore the coordinated element for claims 1-3, 5-7, 9-10, 12-14, 16, 18-20, 22, 24, 26, 28-29 is clearly the manufacturer's instructions to use the separately packaged compositions together, aside from the brand name, container graphics and/or trade dress which is common to all articles of commerce. With respect to claims 23, 25, 27 and 30 wherein the coordinated element is perfume, Ehrlich also teaches that perfume is normally present in all of the tablets and that one unit may be a packet containing a liquid which may be a combination of nonionic surfactant and perfume as discussed above.

With respect to Flynn, Applicants argue that the Flynn does not teach or suggest a coordinated element as presently claimed and does not teach the methods of new claims 28-30.

The Examiner respectfully disagrees with the above arguments because, as already stated above, it is understood that every article of commerce is identified by a brand name. With respect to the method of laundering fabrics, such method is suggested in col. 1, line 51 to col. 2, line 11.

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11. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

November 19, 2003


Lorna M. Douyon
Primary Examiner
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